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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Philippe Benezech

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8355

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7590

02/07/2005

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EXAMINER

NGUYEN, TU X

ART UNIT

PAPER NUMBER

2684

DATE MAILED: 02/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/993,713

Applicant(s)

BENEZECH ET AL.

Examiner

Tu X Nguyen

Art Unit

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION***Response to Arguments***

1. Applicant's arguments filed 9/14/04 have been fully considered but they are not persuasive.

Applicants argue that "Reber et al. do not teach the first being outside the work space. Rather, the teaching is clearly to have the communication portions, including the antenna, of tag device 32 within the inside of the work cabinet. As such, REBER et al. also do not teach or suggest the work cabinet having a wall part that is transparent to a radio frequency used by said antenna, and the antenna being separated from said work space by this transparent wall part.". Reber et al. indicate in fig.1 the dash lines 22 as a symbol inside the storage place 24, the solid line for "tag communication device" indicates outside the storage place 24. In addition, as shown in col.4 lines 13-20, Reber et al. discloses "Optionally, the tag...", one may interpret that the communicating device 32 is not necessary attached the outside walls of the storage place, it may be placed distant from the storage place because the electronic tag 30, transceiver, transmits signals transparently from inside of the storage place to outside of the storage place. Therefore, the examiner agrees with the applicants' argument, on page 6 1st paragraph "There is no reason to have the recited structure as Reber et al. position the communication portions of the tag device 32 within the work cabinet".

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-10, are rejected under 35 U.S.C. 103(a) as being unpatentable over Reber et al. (US Patent 5,969,606).

Regarding claims 1 and 10, Reber et al. disclose an assembly comprising:

a work cabinet (24) having walls whose inside surfaces delimit a work space that is adapted to receive an object (20) to be subjected to a chemical or physical condition (see col.3 lines 50-55); and

a communication system that includes a first communication device outside said work space (40), a radio frequency antenna connected to said first communication device (86,88 fig.6), and a second communication device that is to be associated with the object in said work space (30, fig.5), said first communication device communicating with said second communication device via said antenna (see col.6 lines 46-54),

Reber et al. do not mention at least a part of one of said walls of said work cabinet is transparent to a radio frequency used by said antenna, said antenna being separated from said work space by said at least a part of one of said walls. However, the antenna which being mounted between the walls has no different if the antenna being placed anywhere inside the storage. It is considered that the

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recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

Regarding claim 2 Reber et al. do not mention said at least a part of one of said walls is an inside part of said one of said walls and wherein said antenna is in said one of said walls. However, the antenna which being mounted between the walls has no different if the antenna being placed anywhere inside the storage. It is considered that the recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

Regarding claim 3, Reber et al. do not mention at least a part of one of said walls is an entire thickness of said one of said walls and wherein said antenna is outside said one of said walls. However, the antenna which being mounted between the walls has no different if the antenna being placed anywhere inside the storage. It is considered that the recitation of the intended

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use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

Regarding claim 4, Reber et al. do not mention said antenna is carried by said one of said walls. However, the antenna which being mounted between the walls has no different if the antenna being placed anywhere inside the storage. It is considered that the recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

Regarding claim 5, Reber et al. do not mention one of said walls is movable between an open position that provides access to said work space and a closed position that bars access to said work space. However, the antenna which being mounted between the walls has no different if the antenna being placed anywhere inside the storage. It is considered that the recitation of the intended use of the claimed invention must result in a structural difference

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between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

Regarding claim 6, Reber et al. disclose work cabinet comprises an inside door and an outside door, and wherein said inside door is said one of said walls (see col.3 lines 30-31, "refrigerator" reads on "inside door and outside door").

Regarding claim 7, Reber et al. disclose at least a part of one of said walls comprises a partition and a layer of thermally insulating material (see col.3 lines 30-31, "refrigerator" reads on "thermally insulating").

Regarding claim 8, Reber et al. disclose said second communication device is an identification transponder (see col.5 line 49 through col.6 line 28).

Regarding claim 9, Reber et al. disclose an assembly comprising:

a work cabinet that is thermostatically (see col.30-31) controlled and that has walls whose inside surfaces delimit a work space that is adapted to receive an object (20); and

a radio frequency communication system including an antenna that communicates by radio frequency waves with a communication device associated with the object in said work space (see col.5 line 49 through col.6 line 54),

Reber et al. do not mention at least a part of one of said walls being transparent to the radio frequency waves, said antenna being outside said work space and separated from said work space by said at least a part of one of said walls. However, the antenna which being mounted between the walls has no different if the antenna being placed anywhere inside the storage. It is considered that the recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will

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the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed Tu Nguyen whose telephone number is 703-305-3427. The examiner can normally be reached on Monday through Friday from 8:30AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MAUNG NAY A, can be reached at (703) 308-7745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).

TN
1/31/05



**NICK CORSARO
PRIMARY EXAMINER**